

INTRODUCED: 04/26/2010

REFERRED TO: Metropolitan Development Committee

SPONSOR: Councillor Vaughn

DIGEST: amends portions of the Code regarding the Dwelling Districts Zoning Ordinance amending the setback requirements and maximum building heights in the D-S and D-1 dwelling districts

SOURCE:

Initiated by: Metropolitan Development Commission
Drafted by: Department of Metropolitan Development

LEGAL REQUIREMENTS FOR ADOPTION:

The Ordinance becomes effective July 24, 2010,
unless sooner adopted, rejected or amended by the Council

PROPOSED EFFECTIVE DATE:

Adoption and approvals

GENERAL COUNSEL APPROVAL:



Date: April 21, 2010

CITY-COUNTY GENERAL ORDINANCE NO. , 2010

METROPOLITAN DEVELOPMENT COMMISSION
Docket No. 2010-AO-02

A GENERAL ORDINANCE to the Code of Indianapolis and Marion County, Appendix D, as amended, the Zoning Ordinance for Marion County which ordinance includes the Dwelling Districts Zoning Ordinance, as amended, and fixing a time when the same shall take effect.

WHEREAS, IC 36-7-4 establishes the Metropolitan Development Commission (MDC) of Marion County, Indiana, as the single planning and zoning authority for Marion County, Indiana, and empowers the MDC to approve and recommend to the City-County Council of the City of Indianapolis and of Marion County, Indiana ordinances for the zoning or districting of all lands within the county for the purposes of securing adequate light, air, convenience of access, and safety from fire, flood, and other danger; lessening or avoiding congestion in public ways; promoting the public health, safety, comfort, morals, convenience, and general public welfare; securing the conservation of property values; and securing responsible development and growth;

WHEREAS, the zoning classifications D-S and D-1 are intended to facilitate large lot estate type development as evidenced by their minimum lot size, yet the other development standards do not typify estate type development;

WHEREAS, the vast majority of all areas zoned D-S and most areas zoned D-1 are already developed and feature large front setbacks with an abundance of trees;

WHEREAS, the cumulative effect creates a distinct and pleasant ambiance, aesthetic and quality to the neighborhoods, thus making these lots very desirable; and

WHEREAS, to maintain these unique features of these neighborhoods during redevelopment, the development standards need to be adjusted to reflect these established characteristics in order to preserve the aesthetic and value of the entire neighborhood; now, therefore:

BE IT ORDAINED BY THE CITY-COUNTY COUNCIL OF THE
CITY OF INDIANAPOLIS AND OF MARION COUNTY, INDIANA:

SECTION 1. The Dwelling Districts Zoning Ordinance of Marion County, Indiana, Section 731-202, of the Revised Code of the Consolidated City and County, as amended, pursuant to IC 36-7-4, is hereby

amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 731-202. D-S Dwelling Suburban District Regulations.

Statement of purpose. *The D-S district is intended for use in areas of extreme topography, areas conducive to estate development, or areas where it is desirable to permit only low density development (such as adjacent to floodplains, aquifers, urban conservation areas, within the extended alignment of airport runways, etc.). Of the dwelling districts providing for only single-family dwellings, the D-S district provides the lowest density in the ordinance. The D-S district provides for single-family residential building lots consisting of at least one acre. A typical density for the D-S district is four-tenths (0.4) units per gross acre. This district represents the very low density residential classification of the comprehensive general land use plan. This district does not require public water and sewer facilities. Development plans should incorporate and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site considerations, including vegetation, topography, drainage and wildlife (refer to the cluster subdivision option of section 731-200).*

- (a) *Permitted D-S uses.* The following uses shall be permitted in the D-S district. Only one primary use shall be permitted per lot. All uses in the D-S district shall conform to the D-S development standards (section 731-202(b)) and the dwelling district regulations of section 731-200.

(1) *Primary uses.*

- a. Single-family dwelling, including a manufactured home as regulated in section 731-222.
- b. Group home, as defined in section 731-102, and as regulated in section 731-200(a)(8).
- c. Religious use, as regulated in section 731-224.

(2) *Temporary uses,* as regulated in section 731-218.

(3) *Accessory uses,* as regulated in section 731-219.

(4) *Home occupations,* as regulated in section 731-220.

(b) *D-S development standards.*

- (1) *Minimum lot area:* One acre; provided, however, any plat of a subdivision consisting of five (5) or more lots submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, subsequent to the effective date of this ordinance, may reduce said minimum lot area for up to twenty (20) percent of the total number of lots within said plat, to the extent of up to twenty (20) percent below such one-acre requirement, provided the average size of all lots within said approved plat shall be at least one acre.

(2) *Minimum lot width and street frontage.*

- a. Minimum lot width at the required setback line: One hundred fifty (150) feet; provided, however, any plat of a subdivision consisting of five (5) or more lots submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, subsequent to the effective date of this ordinance, may reduce said minimum width for up to twenty (20) percent of the total number of lots within said plat, to the extent of up to twenty (20) percent below such 150-foot requirement.
- b. Minimum street frontage: Each lot shall have at least seventy-five (75) feet of frontage on a public street and shall gain direct access from either said street or an abutting alley.

(3) *Minimum setback lines and yards.*

- a. Minimum setback line and front yard: ~~Front yards, having a minimum depth in accordance with the setback requirements of section 731-221(a), shall be provided along all public street right-of-way lines.~~

Front yards shall be provided along all public street right-of-way lines.

The front setback exception of Section 731-200(a)(3)d.1. (Established front setback exception/averaging) shall not apply.

The depth of both the front yard and the building setback shall be the greater of the following:

1. forty (40) feet as measured from the existing right-of-way;
2. forty (40) feet as measured from the proposed right-of-way as determined by the Official Thoroughfare Plan; or

3. the average setback of the existing buildings along the linear frontage of the same block.
 - b. Minimum rear yard: Twenty-five (25) feet.
 - c. Minimum side yard: Aggregate thirty-five (35) feet; provided, however, no side yard shall be less than fifteen (15) feet.
- (4) *Minimum open space:* Eighty-five (85) percent of the lot area.
- (5) *Maximum height.*
- a. Primary building: Thirty-five (35) feet; or forty-five (45) feet, if for each foot of height in excess of thirty-five (35) feet, to an absolute height of forty-five (45) feet, ~~one (1) two (2)~~ additional ~~foot-feet of~~ setback ~~shall be~~ are provided beyond such adjacent required ~~front~~, side or rear yard setback line for each foot of building or structural height above thirty-five (35) feet (See section 731-213, Diagram K).
 - b. Accessory buildings: Twenty-four (2024) feet, however in no instance shall an accessory building be higher than the primary building.
- (6) *Minimum main floor area.* Minimum main floor area of the primary building, exclusive of garage, carports, and open porches:
- a. One-story building: One thousand two hundred (1,200) square feet.
 - b. Building higher than one story: Eight hundred (800) square feet, provided the total floor area shall be at least one thousand two hundred (1,200) square feet.
- (7) *Off-street parking and public streets.* Off-street parking areas and public streets shall be provided in accordance with section 731-221(e) and (c).

SECTION 2. The Dwelling Districts Zoning Ordinance of Marion County, Indiana, Section 731-203, of the Revised Code of the Consolidated City and County, as amended, pursuant to IC 36-7-4, is hereby amended by the deletion of the language that is stricken-through and by the addition of the language that is underscored, to read as follows:

Sec. 731-203. D-1 Dwelling District One Regulations.

Statement of purpose. The D-1 district is intended for use in suburban areas. There is no specific requirement for the placement of this district other than carrying out the single-family low density patterns expressed by the comprehensive general land use plan. The D-1 district has a typical density of nine-tenths (0.9) units per gross acre. This district represents the very low density residential classification of the comprehensive general land use plan. Under most circumstances, public water and sewer facilities should be present but are not mandatory. Development plans should incorporate and promote environmental and aesthetic considerations, working within the constraints and advantages presented by existing site considerations, including vegetation, topography, drainage and wildlife (refer to the cluster subdivision option of section 731-200).

- (a) *Permitted D-1 uses.* The following uses shall be permitted in the D-1 district. Only one primary use shall be permitted per lot. All uses in the D-1 district shall conform to the D-1 development standards (section 731-203(b)) and the dwelling district regulations of section 731-200.
- (1) *Primary uses.*
 - a. Single-family dwelling, including a manufactured home as regulated in section 731-222.
 - b. Group home, as defined in section 731-102 and as regulated in section 731-200(a)(8).
 - c. Religious use, as regulated in section 731-224.
- (2) *Temporary uses,* as regulated in section 731-218.
- (3) *Accessory uses,* as regulated in section 731-219.
- (4) *Home occupations,* as regulated in section 731-220.
- (b) *D-1 development standards.*

- (1) *Minimum lot area.* Twenty-four thousand (24,000) square feet; provided, however, any plat of a subdivision consisting of five (5) or more lots submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, subsequent to the effective date of this ordinance may reduce said minimum lot area for up to twenty (20) percent of the total number of lots within said plat, to the extent of up to twenty (20) percent below such 24,000-square foot requirement, provided the average size of all lots within said approved plat shall be at least twenty-four thousand (24,000) square feet.
- (2) *Minimum lot width and street frontage.*
 - a. Minimum lot width at the required setback line: Ninety (90) feet; provided, however, any plat of a subdivision consisting of five (5) or more lots submitted for plat approval in accordance with the Subdivision Control Ordinance of Marion County, Indiana, subsequent to the effective date of this ordinance, may reduce said minimum width for up to twenty (20) percent of the total number of lots within said plat, to the extent of up to twenty (20) percent below such 90-foot requirement.
 - b. Minimum street frontage: Each lot shall have at least forty-five (45) feet of frontage on a public street and shall gain direct access from either said street or an abutting alley.
- (3) *Minimum setback lines and yards.*
 - a. Minimum setback line and yard: ~~Front yards having a minimum depth in accordance with the setback requirements of section 731-221(a) shall be provided along all public street right-of-way lines. Front yards shall be provided along all public street right-of-way lines.~~ The front setback exception of Section 731-200(a)(3)d.1. (Established front setback exception/averaging) shall not apply. The depth of both the front yard and the building setback shall be the greater of the following:
 1. Thirty (30) feet as measured from the existing right-of-way;
 2. Thirty (30) feet as measured from the proposed right-of-way as determined by the Official Thoroughfare Plan; or
 3. the average setback of the existing buildings along the linear frontage of the same block.
 - b. Minimum rear yard: Twenty-five (25) feet.
 - c. Minimum side yard: Aggregate twenty-two (22) feet; provided, however, no side yard shall be less than eight (8) feet.
- (4) *Minimum open space:* Eighty (80) percent of the lot area.
- (5) *Maximum height.*
 - a. Primary building: Thirty-five (35) feet; or ~~forty-five (45) feet~~, if for each foot of height in excess of thirty-five (35) feet, to an absolute height of forty-five (45) feet, ~~one (1) two (2)~~ additional feet of setback shall be ~~are~~ provided beyond such adjacent required ~~front~~, side or rear yard setback line for each foot of building or structural height above thirty-five (35) feet (See section 731-213, Diagram K).
 - b. Accessory buildings: Twenty-four (2024) feet, however in no instance shall an accessory building be higher than the primary building.
- (6) *Minimum main floor area.* Minimum main floor area of the primary building, exclusive of garage, carports, and open porches:
 - a. One-story building: One thousand Two hundred (1,200) square feet.
 - b. Building higher than one story: Eight hundred (800) square feet, provided the total floor area shall be at least one thousand two hundred (1,200) square feet.
- (7) *Off-street parking and public streets.* Off-street parking areas and public streets shall be provided in accordance with section 731-221(e) and (c).

SECTION 3. The expressed or implied repeal or amendment by this ordinance of any other ordinance or part of any other ordinance does not affect any rights or liabilities accrued, penalties incurred, or proceedings begun prior to the effective date of this ordinance. Those rights, liabilities, and proceedings are continued, and penalties shall be imposed and enforced under the repealed or amended ordinance as if this ordinance had not been adopted.

SECTION 4. Should any provision (section, paragraph, sentence, clause, or any other portion) of this ordinance be declared by a court of competent jurisdiction to be invalid for any reason, the remaining provision or provisions shall not be affected, if and only if such remaining provisions can, without the invalid provision or provisions, be given the effect intended by the Council in adopting this ordinance. To this end, the provisions of this ordinance are severable.

SECTION 5. This ordinance shall be in effect on August 1, 2010.

The foregoing was passed by the City-County Council this _____ day of _____, 2010, at _____ p.m.

ATTEST:

Ryan Vaughn
President, City-County Council

Melissa Thompson
Clerk, City-County Council